

Part III – Administrative, Procedural, and Miscellaneous

Information Reporting by Organizations That Receive Charitable Contributions of Certain Motor Vehicles, Boats, and Airplanes

Notice 2006-1

SECTION 1. PURPOSE

This notice provides guidance on the reporting requirements under § 170(f)(12)(D) of the Internal Revenue Code, which apply to any donee organization that receives a contribution of a qualified vehicle after December 31, 2004, the claimed value of which is more than \$500.

A donee organization is an organization eligible to receive charitable contributions as described in § 170(c).

A qualified vehicle is any: (i) motor vehicle manufactured primarily for use on public streets, roads, and highways; (ii) boat; or (iii) airplane; but the term does not include any property described in § 1221(a)(1) (*e.g.*, property held primarily for sale to customers). See § 170(f)(12)(E).

This notice complements Notice 2005-44, 2005-25 I.R.B. 1287, which provides guidance under § 170(f)(12) on the allowable deduction for a charitable contribution of a qualified vehicle and the requirements applicable to the contemporaneous written acknowledgment that the donee organization provides to the donor.

SECTION 2. BACKGROUND

Section 884 of the American Jobs Creation Act of 2004, Pub. L. No. 108-357, 118 Stat. 1418 (AJCA), added §§ 170(f)(12) and 6720 to the Internal Revenue Code effective for contributions of qualified vehicles made after December 31, 2004.

Section 170(f)(12)(A) disallows a deduction under § 170(a) for a contribution of a qualified vehicle the claimed value of which is more than \$500 unless the donor substantiates the contribution by a contemporaneous written acknowledgment that meets the requirements of § 170(f)(12)(B).

Section 170(f)(12)(D) requires a donee organization to provide the Secretary of the Treasury or his delegate with the information contained in the acknowledgment furnished to the donor.

The Internal Revenue Service has provided Form 1098-C for reporting to the Service the information required to be reported under § 170(f)(12)(D). Form 1098-C can be viewed online at <http://www.irs.gov/pub/irs-pdf/f1098c.pdf>.

Form 1098-C will be revised to take account of the Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135, 119 Stat. 2577 (GO Zone Act), which was enacted on December 21, 2005. Section 403(gg) of the GO Zone Act contains a technical amendment to § 884 of the AJCA. The technical amendment added clauses (v) and (vi) to § 170(f)(12)(B). Section 170(f)(12)(B)(v) requires the acknowledgment to include information concerning whether the donee organization provided any goods or services in consideration, in whole or in part, for the qualified vehicle. In addition, § 170(f)(12)(B)(vi) requires the

acknowledgment to contain a description and good faith estimate of the value of any goods or services referred to in clause (v) or, if such goods or services consist solely of intangible religious benefits (as defined in § 170(f)(8)(B)), a statement to that effect. Notwithstanding these reporting requirements, as set forth below in Section 5, donees may continue to use the current version of Form 1098-C to satisfy the requirements for a contemporaneous written acknowledgment until a new form is provided.

SECTION 3. INFORMATION REPORTING TO THE INTERNAL REVENUE SERVICE

If a donee organization receives a contribution of a qualified vehicle with a claimed value of more than \$500 after December 31, 2004, the donee organization is required to provide a contemporaneous written acknowledgment to the donor. The donee organization may use a completed Form 1098-C for the contemporaneous written acknowledgment. See section 3.03 of Notice 2005-44, 2005-25 I.R.B. 1287, for guidance on the information that must be included in a contemporaneous written acknowledgment and the deadline for furnishing the acknowledgment to the donor.

Any donee organization that provides a contemporaneous written acknowledgment to a donor under this section is required to report to the Service the information contained in the acknowledgment. The report is due by February 28 (March 31 if filing electronically) of the year following the year in which the donee organization provides the acknowledgment to the donor.

The donee organization must file the report on Copy A of the official Form 1098-C. The official paper Form 1098-C can be ordered online at *Forms and*

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(<http://www.irs.gov/formspubs/page/0,,id=10768,00.html>) or by calling 1-800-829-3676. Instructions for Form 1098-C are available at <http://www.irs.gov/pub/irs-pdf/i1098c.pdf>. General instructions on filing information returns and reporting on paper or electronic/magnetic media, including instructions on where to file Form 1098-C, can be found in the General Instructions for Forms 1099, 1098, 5498, and W-2G, which are available at <http://www.irs.gov/pub/irs-pdf/i1099gi.pdf>.

A donee organization that files Form 1098-C on paper should send it with Form 1096, Annual Summary and Transmittal of U.S. Information Returns, to the Internal Revenue Service Center, Ogden, UT 84201-0027.

A donee organization that is required to file 250 or more Forms 1098-C during the calendar year must file them electronically or magnetically. Specifications for Filing Forms 1098, 1099, 5498, and W-2G Electronically or Magnetically can be found in Publication 1220 at <http://www.irs.gov/pub/irs-pdf/p1220.pdf>.

Example. On December 31, 2006, D contributes a qualified vehicle to O, an organization that is described in § 170(c). On January 15, 2007, O sells the qualified vehicle in an arm's length transaction to an unrelated party without any significant intervening use or material improvement by O. On February 14, 2007, O provides D an acknowledgment that meets the requirements of a contemporaneous written acknowledgment under § 170(f)(12). D properly claims the deduction allowable under § 170(f)(12) in taxable year 2006 by attaching the acknowledgment to Form 1040, Individual Income Tax Return, that D files by

April 15, 2007. To meet its reporting requirements under § 170(f)(12)(D), O must report the information contained in the acknowledgment on Copy A of Form 1098-C and file the report with the Service by February 28, 2008. But if O files electronically, the report is due on March 31, 2008.

The filing of Form 1098-C does not relieve the donee organization of its obligation under § 6050L to report information about dispositions of charitable deduction property on Form 8282, Donee Information Return.

SECTION 4. INTERIM GUIDANCE FOR REPORTING A CONTEMPORANEOUS WRITTEN ACKNOWLEDGMENT FURNISHED TO A DONOR IN 2005

For any contemporaneous written acknowledgment furnished to a donor on or before December 31, 2005, a donee organization may report to the Service the information contained in such acknowledgment by filing either Copy A of Form 1098-C or a copy of the acknowledgment. Electronic/magnetic media filing of Form 1098-C is permitted, but not required.

Reports filed on paper should be transmitted with Form 1096 and sent to the Internal Revenue Service Center, Ogden, UT 84201-0027, by February 28, 2006. Even though it files a copy of an acknowledgment instead of a Form 1098-C, the donee organization should check the box on the transmittal Form 1096 that indicates a Form 1098-C is being filed. But if a donee organization already filed a report with the Service in a reasonable manner before January 6, 2006, it need not resubmit such report.

The guidance in this section supersedes any instruction to the contrary in the 2005 Instructions for Form 1098-C.

SECTION 5. SPECIAL TRANSITION RULE CONCERNING CONTENT OF CONTEMPORANEOUS WRITTEN ACKNOWLEDGMENT

Form 1098-C will be revised to reflect the information described in clauses (v) and (vi) of § 170(f)(12)(B) as added by the GO Zone Act. Until Form 1098-C is revised, a contemporaneous written acknowledgment will be treated as meeting the requirements of § 170(f)(12)(B) even if it does not contain the information described in clauses (v) and (vi) of § 170(f)(12)(B).

SECTION 6. SECTION 6720 PENALTY

Section 6720 imposes penalties on any donee organization required under § 170(f)(12)(A) to furnish an acknowledgment to a donor that knowingly furnishes a false or fraudulent acknowledgment, or knowingly fails to furnish an acknowledgment in the manner, at the time, and showing the information required under § 170(f)(12) or regulations thereunder. The Service and the Treasury Department intend to issue regulations under § 6720 clarifying that the donee organization information report described in section 3 of this notice is an integral part of the acknowledgment requirement. The regulations will clarify the application of the § 6720 penalties to a donee organization that knowingly files a false or fraudulent information report with the Service, or that knowingly fails to file such information report with the Service in the manner, at the time, and showing the information required under § 170(f)(12) or the regulations prescribed thereunder and this Notice. The regulations will be effective as of the date of publication of this Notice.

SECTION 7. PAPERWORK REDUCTION ACT

The collections of information in this notice have been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1980.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in section 3 of this notice are required from donee organizations to satisfy the donee reporting requirements of § 170(f)(12)(D). The collections of information are mandatory. The likely respondents are tax-exempt charitable organizations.

The estimated total annual reporting burden is 21,500 hours for donee organizations.

The estimated annual burden per donee organization varies from 30 minutes to 16 hours, depending on individual circumstances. The estimated average annual burdens are 5 hours for donee organizations. The estimated number of donee organizations is 4,300.

The estimated annual frequency of responses (used for reporting requirements only) is annually.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by § 6103.

SECTION 8. DRAFTING INFORMATION

The principal author of this notice is Sean Barnett of the Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this notice contact Mr. Barnett at (202) 283-8912 (not a toll-free call).